

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

LEO WHELAN,

Plaintiff,

v.

DAVID K SERGI, BILL HUDDLESTON,

Defendants.

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CIVIL ACTION NO. 4:17-CV-00334-ALM-  
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**ORDER**

On July 7, 2017, Defendants Bill Huddleston and David Sergi filed their Joint Rule 12(b)(1) & Rule 12(b)(6) Motion to Dismiss for Lack of Jurisdiction and for Failure to State a Claim and Brief in Support (“Defendants’ Motion to Dismiss”) [Dkt. 5], arguing for dismissal of this case pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). To date, Plaintiff has not filed a Response to Defendants’ Motion to Dismiss. However, given Plaintiff’s *pro se* status, the Court finds that Plaintiff’s deadline to respond to Defendants’ Motion to Dismiss should be extended, and Plaintiff should be given further opportunity to explain why this case should not be dismissed. Accordingly,

It is therefore **ORDERED** that Plaintiff shall file a response to Defendants' Motions to Dismiss no later than ***Friday, August 11, 2017***. Any Reply and/or Sur-Reply, if necessary, should be filed in accordance with the Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the Eastern District of Texas. Should Plaintiff fail to file a Response on or before Friday, August 11, 2017, the Court will presume "that [Plaintiff] does not controvert the facts set out by [Defendants] and has no evidence to offer in opposition to the motion." *See* EASTERN DISTRICT OF TEXAS LOCAL RULE CV-7(d). After August 11, 2017, the Court will consider Defendants' Motion to Dismiss ready for decision and will take such motion up.

**IT IS SO ORDERED.**

**SIGNED this 26th day of July, 2017.**

A handwritten signature in black ink, appearing to read 'C. Nowak', is written over a horizontal line.

Christine A. Nowak  
UNITED STATES MAGISTRATE JUDGE